

REMARKS

By the foregoing amendments the independent claims 45, 46 and 47 have been amended. Thus, claims 45-53 remain in the application.

Claims 45-53 were rejected in the outstanding Office Action under 35 U.S.C. §251 as allegedly being broadened in a reissue application filed outside the two year statutory period. The rejected claims were alleged to broaden the invention because the claims have the word "comprising" in their preamble. This word allegedly allows an additional step of further turning the circular contour portion into a square contour portion resulting in an invention that has a square contour portion and if practiced would not have infringed the original patent claims since the invention of original claim patent has a circular contour portion. It was concluded in the rejection that a claim is broader in scope than the original claims if it contains within its scope any conceivable product or process which would have not infringed the original patent. The claim is allegedly broadened if it is broader in any one respect even though it may be narrower in other respects. While Applicants take issue with the propriety of this rejection, the claims have been amended so as to hopefully overcome the rejection.

Each of independent claims 45, 46 and 47 has been amended above by changing the transitional term "comprising" to –consisting essentially of--. The transitional phrase in the claims defines the scope of the claims with respect to what unrecited additional steps, if any, are excluded from the scope of the claim. The transitional phrase "consisting essentially of" in the amended claims limits the scope of the claims to the specified steps and those that do not materially affect the basic and novel characteristics of the

claimed invention. In re Herz, 537 F.2d 549, 551-52, 190 USPQ 461, 463 (CCPA 1976). See also MPEP §2111.03.

In view of the amendments to the claims, Applicants respectfully submit that claims 45-53 are proper under 35 U.S.C. §251. Accordingly, reconsideration and allowance of the claims is requested.

Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (Case No. 501.20289RC6) and please credit any excess fees to such deposit account.

Respectfully submitted,



Ronald J. Shore
Registration No. 28,577
ANTONELLI, TERRY, STOUT & KRAUS, LLP

RJS/kmh

Attachments